

AMENDED IN ASSEMBLY APRIL 10, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2428

Introduced by Assembly Member Patterson
(Coauthors: Assembly Members Chávez, Donnelly, and Olsen)

February 21, 2014

An act to amend Sections 17935, 17941, 17942, 17948, and 23153 of, and to add Sections 17202.3 and 23701.1 to, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 2428, as amended, Patterson. ~~Taxation~~—*Income taxes*: minimum franchise tax: *annual tax*: deductions: exemptions.

The Personal Income Tax Law allows various deductions in computing the income that is subject to the tax imposed by that law.

This bill would allow, for taxable years beginning on or after January 1, ~~2014~~, 2015, as a deduction any income earned or received by a taxpayer that is attributable to a taxpayer's status as a partner in or sole proprietor of a qualified business, as defined, for the first 5 consecutive taxable years in which the business is a qualified business.

Existing law generally imposes a minimum franchise tax of \$800, except as provided, on every corporation incorporated in this state, qualified to transact intrastate business in this state, or doing business in this state, and an annual tax in an amount equal to the minimum franchise tax on every limited partnership, limited liability partnership, and limited liability company registered, qualified to transact business, or doing business in this state, as specified. Existing law requires every limited liability company subject to the annual tax to pay annually to

this state a fee equal to specified amounts based upon total income from all sources reportable to this state.

This bill would exempt from the minimum franchise tax every corporation incorporated in this state on or after January 1, ~~2014~~, 2015, for the first 5 consecutive taxable years during which the corporation does business within this state. This bill would also exempt from the annual tax every limited partnership, limited liability partnership, and limited liability company that files ~~the appropriate~~ *a specified* form with the Secretary of State on or after January 1, ~~2014~~, 2015, as specified, for the first 5 consecutive taxable years during ~~with the time~~ that entity does business within the state. This bill would additionally exempt a limited liability company that files ~~the appropriate~~ *a specified* form with the Secretary of State on or after January 1, ~~2014~~, 2015, from the fee equal to specified amounts for the first 5 consecutive taxable years that the limited liability company does business within this state.

The Corporation Tax Law, in modified conformity with federal income tax laws, exempts various types of organizations from state income taxes imposed by that law.

This bill would exempt a corporation that incorporates under the laws of this state on or after January 1, ~~2014~~, 2015, for the first 5 consecutive taxable years that it does business within this state.

Under existing law, a corporation that is a small business solely owned by a deployed member of the United States Armed Forces is not subject to the minimum franchise tax when the owner is deployed and the corporation meets certain requirements. Existing law makes these provisions inoperative for taxable years beginning on or after January 1, 2018.

This bill would instead make these provisions inoperative for taxable years beginning on or after January 1, 2019.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 17202.3 is added to the Revenue and
- 2 Taxation Code, to read:
- 3 17202.3. (a) (1) For each taxable year beginning on or after
- 4 January 1, ~~2014~~, 2015, there shall be allowed as a deduction the

1 amount of qualified income earned or received by a taxpayer from
2 a qualified business.

3 (2) The deduction allowed under this section shall apply only
4 for the first five consecutive taxable years in which the business
5 is a qualified business.

6 (b) For purposes of this section:

7 (1) “Qualified business” means a business that, on or after
8 January 1, ~~2014~~, 2015, is either a sole proprietorship, a general
9 partnership that commences business within this state, a limited
10 partnership, or a limited liability partnership, that files the
11 applicable document or form with the Secretary of State, and does
12 business within this state, as defined by Section 23101, during the
13 period in which the deduction allowed under this section is allowed.

14 (2) “Qualified income” means any income attributable to a
15 taxpayer’s status as a partner in or sole proprietor of a qualified
16 business.

17 SEC. 2. Section 17935 of the Revenue and Taxation Code is
18 amended to read:

19 17935. (a) For each taxable year beginning on or after January
20 1, 1997, every limited partnership doing business in this state, as
21 defined by Section 23101, and required to file a return under
22 Section 18633 shall pay annually to this state a tax for the privilege
23 of doing business in this state in an amount equal to the applicable
24 amount specified in Section 23153.

25 (b) (1) In addition to any limited partnership that is doing
26 business in this state and therefore is subject to the tax imposed
27 by subdivision (a), for each taxable year beginning on or after
28 January 1, 1997, every limited partnership that has executed,
29 acknowledged, and filed a certificate of limited partnership with
30 the Secretary of State pursuant to Section 15621 or 15902.01 of
31 the Corporations Code, and every foreign limited partnership that
32 has registered with the Secretary of State pursuant to Section 15692
33 or 15909.01 of the Corporations Code, shall pay annually the tax
34 prescribed in subdivision (a). The tax shall be paid for each taxable
35 year, or part thereof, until a certificate of cancellation is filed on
36 behalf of the limited partnership with the office of the Secretary
37 of State pursuant to Section 15623, 15696, 15902.03, or 15909.07
38 of the Corporations Code.

39 (2) If a taxpayer files a return with the Franchise Tax Board that
40 is designated its final return, that board shall notify the taxpayer

1 that the tax imposed by this chapter is due annually until a
2 certificate of cancellation is filed with the Secretary of State
3 pursuant to Section 15623, 15696, 15902.03, or 15909.07 of the
4 Corporations Code.

5 (c) The tax imposed by this chapter shall be due and payable
6 on the date the return is required to be filed under former Section
7 18432 or 18633.

8 (d) For purposes of this section, “limited partnership” means
9 any partnership formed by two or more persons under the laws of
10 this state or any other jurisdiction and having one or more general
11 partners and one or more limited partners.

12 (e) Notwithstanding subdivision (b), any limited partnership
13 that ceased doing business prior to January 1, 1997, filed a final
14 return with the Franchise Tax Board for a taxable year ending
15 before January 1, 1997, and filed a certificate of dissolution with
16 the Secretary of State pursuant to Section 15623 of the
17 Corporations Code prior to January 1, 1997, shall not be subject
18 to the tax imposed by this chapter for any period following the
19 date the certificate of dissolution was filed with the Secretary of
20 State, but only if the limited partnership files a certificate of
21 cancellation with the Secretary of State pursuant to Section 15623
22 of the Corporations Code. In the case where a notice of proposed
23 deficiency assessment of tax or a notice of tax due (whichever is
24 applicable) is mailed after January 1, 2001, the first sentence of
25 this subdivision shall not apply unless the certificate of cancellation
26 is filed with the Secretary of State not later than 60 days after the
27 date of the mailing of the notice.

28 (f) Notwithstanding subdivisions (a) and (b), every limited
29 partnership that files a certificate of limited partnership with the
30 Secretary of State on or after January 1, ~~2014~~, 2015, shall not be
31 subject to the tax imposed by this chapter for the first five
32 consecutive taxable years that it does business within this state, as
33 defined by Section 23101, and is required to file a return under
34 Section 18633.

35 SEC. 3. Section 17941 of the Revenue and Taxation Code is
36 amended to read:

37 17941. (a) For each taxable year beginning on or after January
38 1, 1997, a limited liability company doing business in this state,
39 as defined in Section 23101, shall pay annually to this state a tax
40 for the privilege of doing business in this state in an amount equal

1 to the applicable amount specified in subdivision (d) of Section
2 23153 for the taxable year.

3 (b) (1) In addition to any limited liability company that is doing
4 business in this state and is therefore subject to the tax imposed
5 by subdivision (a), for each taxable year beginning on or after
6 January 1, 1997, a limited liability company shall pay annually
7 the tax prescribed in subdivision (a) if articles of organization have
8 been accepted, or a certificate of registration has been issued, by
9 the office of the Secretary of State. The tax shall be paid for each
10 taxable year, or part thereof, until a certificate of cancellation of
11 registration or of articles of organization is filed on behalf of the
12 limited liability company with the office of the Secretary of State.

13 (2) If a taxpayer files a return with the Franchise Tax Board that
14 is designated as its final return, the Franchise Tax Board shall
15 notify the taxpayer that the annual tax shall continue to be due
16 annually until a certificate of dissolution is filed with the Secretary
17 of State pursuant to Section 17707.08 of the Corporations Code
18 or a certificate of cancellation is filed with the Secretary of State
19 pursuant to Section 17708.06 of the Corporations Code.

20 (c) The tax assessed under this section shall be due and payable
21 on or before the 15th day of the fourth month of the taxable year.

22 (d) For purposes of this section, "limited liability company"
23 means an organization, other than a limited liability company that
24 is exempt from the tax and fees imposed under this chapter
25 pursuant to Section 23701h or Section 23701x, that is formed by
26 one or more persons under the law of this state, any other country,
27 or any other state, as a "limited liability company" and that is not
28 taxable as a corporation for California tax purposes.

29 (e) Notwithstanding anything in this section to the contrary, if
30 the office of the Secretary of State files a certificate of cancellation
31 pursuant to Section 17707.02 of the Corporations Code for any
32 limited liability company, then paragraph (1) of subdivision (f) of
33 Section 23153 shall apply to that limited liability company as if
34 the limited liability company were properly treated as a corporation
35 for that limited purpose only, and paragraph (2) of subdivision (f)
36 of Section 23153 shall not apply. Nothing in this subdivision
37 entitles a limited liability company to receive a reimbursement for
38 any annual taxes or fees already paid.

39 (f) (1) Notwithstanding any provision of this section to the
40 contrary, a limited liability company that is a small business solely

1 owned by a deployed member of the United States Armed Forces
2 shall not be subject to the tax imposed under this section for any
3 taxable year the owner is deployed and the limited liability
4 company operates at a loss or ceases operation.

5 (2) The Franchise Tax Board may promulgate regulations as
6 necessary or appropriate to carry out the purposes of this
7 subdivision, including a definition for “ceases operation.”

8 (3) For the purposes of this subdivision, all of the following
9 definitions apply:

10 (A) “Deployed” means being called to active duty or active
11 service during a period when a Presidential Executive order
12 specifies that the United States is engaged in combat or homeland
13 defense. “Deployed” does not include either of the following:

14 (i) Temporary duty for the sole purpose of training or processing.

15 (ii) A permanent change of station.

16 (B) “Operates at a loss” means a limited liability company’s
17 expenses exceed its receipts.

18 (C) “Small business” means a limited liability company with
19 total income from all sources derived from, or attributable, to the
20 state of two hundred fifty thousand dollars (\$250,000) or less.

21 (4) This subdivision shall become inoperative for taxable years
22 beginning on or after January 1, 2018.

23 (g) Notwithstanding any provision of this section to the contrary,
24 a limited liability company that files articles of organization with
25 the Secretary of State on or after January 1, ~~2014~~, 2015, shall not
26 be subject to the tax imposed under this section for the first five
27 consecutive taxable years that it does business within this state, as
28 defined by Section 23101.

29 SEC. 4. Section 17942 of the Revenue and Taxation Code is
30 amended to read:

31 17942. (a) In addition to the tax imposed under Section 17941,
32 every limited liability company subject to tax under Section 17941
33 shall pay annually to this state a fee equal to:

34 (1) Nine hundred dollars (\$900), if the total income from all
35 sources derived from or attributable to this state for the taxable
36 year is two hundred fifty thousand dollars (\$250,000) or more, but
37 less than five hundred thousand dollars (\$500,000).

38 (2) Two thousand five hundred dollars (\$2,500), if the total
39 income from all sources derived from or attributable to this state

1 for the taxable year is five hundred thousand dollars (\$500,000)
2 or more, but less than one million dollars (\$1,000,000).

3 (3) Six thousand dollars (\$6,000), if the total income from all
4 sources derived from or attributable to this state for the taxable
5 year is one million dollars (\$1,000,000) or more, but less than five
6 million dollars (\$5,000,000).

7 (4) Eleven thousand seven hundred ninety dollars (\$11,790), if
8 the total income from all sources derived from or attributable to
9 this state for the taxable year is five million dollars (\$5,000,000)
10 or more.

11 (b) (1) (A) For purposes of this section, “total income from all
12 sources derived from or attributable to this state” means gross
13 income, as defined in Section 24271, plus the cost of goods sold
14 that are paid or incurred in connection with the trade or business
15 of the taxpayer. However, “total income from all sources derived
16 from or attributable to this state” shall not include allocation or
17 attribution of income or gain or distributions made to a limited
18 liability company in its capacity as a member of, or holder of an
19 economic interest in, another limited liability company if the
20 allocation or attribution of income or gain or distributions are
21 directly or indirectly attributable to income that is subject to the
22 payment of the fee described in this section.

23 (B) For purposes of this section, “total income from all sources
24 derived from or attributable to this state” shall be determined using
25 the rules for assigning sales under Sections 25135 and 25136 and
26 the regulations thereunder, as modified by regulations under
27 Section 25137, other than those provisions that exclude receipts
28 from the sales factor.

29 (2) In the event a taxpayer is a commonly controlled limited
30 liability company, the total income from all sources derived from
31 or attributable to this state, taking into account any election under
32 Section 25110, may be determined by the Franchise Tax Board to
33 be the total income of all the commonly controlled limited liability
34 company members if it determines that multiple limited liability
35 companies were formed for the primary purpose of reducing fees
36 payable under this section. A determination by the Franchise Tax
37 Board under this subdivision may only be made with respect to
38 one limited liability company in a commonly controlled group.
39 However, each commonly controlled limited liability company
40 shall be jointly and severally liable for the fee. For purposes of

1 this section, commonly controlled limited liability companies shall
2 include the taxpayer and any other partnership or limited liability
3 company doing business (as defined in Section 23101) in this state
4 and required to file a return under Section 18633 or 18633.5, in
5 which the same persons own, directly or indirectly, more than 50
6 percent of the capital interests or profits interests.

7 (c) The fee assessed under this section shall be due and payable
8 on the date the return of the limited liability company is required
9 to be filed under Section 18633.5, shall be collected and refunded
10 in the same manner as the taxes imposed by this part, and shall be
11 subject to interest and applicable penalties.

12 (d) (1) The fee imposed by this section shall be estimated and
13 paid on or before the 15th day of the sixth month of the current
14 taxable year.

15 (2) A penalty of 10 percent of the amount of any underpayment
16 shall be added to the fee. The underpayment amount shall be equal
17 to the difference between the total amount of the fee imposed by
18 this section for the taxable year less the amount paid under
19 paragraph (1) by the date specified in that paragraph. A penalty
20 shall not be imposed with respect to any fee estimated and paid
21 under this section if the amount paid by the date prescribed in this
22 subdivision is equal to or greater than the total amount of the fee
23 of the limited liability company for the preceding taxable year.

24 (e) Notwithstanding subdivision (a), a limited liability company
25 that files articles of organization with the Secretary of State on or
26 after January 1, ~~2014~~, 2015, shall not be subject to the fee imposed
27 under this section for the first five consecutive taxable years that
28 it does business within this state, as defined by Section 23101.

29 SEC. 5. Section 17948 of the Revenue and Taxation Code is
30 amended to read:

31 17948. (a) For each taxable year beginning on or after January
32 1, 1997, every limited liability partnership doing business in this
33 state (as defined in Section 23101) and required to file a return
34 under Section 18633 shall pay annually to the Franchise Tax Board
35 a tax for the privilege of doing business in this state in an amount
36 equal to the applicable amount specified in paragraph (1) of
37 subdivision (d) of Section 23153 for the taxable year.

38 (b) In addition to any limited liability partnership that is doing
39 business in this state and therefore is subject to the tax imposed
40 by subdivision (a), for each taxable year beginning on or after

1 January 1, 1997, every registered limited liability partnership that
2 has registered with the Secretary of State pursuant to Section 16953
3 of the Corporations Code and every foreign limited liability
4 partnership that has registered with the Secretary of State pursuant
5 to Section 16959 of the Corporations Code shall pay annually the
6 tax prescribed in subdivision (a). The tax shall be paid for each
7 taxable year, or part thereof, until any of the following occurs:

8 (1) A notice of cessation is filed with the Secretary of State
9 pursuant to subdivision (b) of Section 16954 or 16960 of the
10 Corporations Code.

11 (2) A foreign limited liability partnership withdraws its
12 registration pursuant to subdivision (a) of Section 16960 of the
13 Corporations Code.

14 (3) The registered limited liability partnership or foreign limited
15 liability partnership has been dissolved and finally wound up.

16 (c) The tax assessed under this section shall be due and payable
17 on the date the return is required to be filed under Section 18633.

18 (d) If a taxpayer files a return with the Franchise Tax Board that
19 is designated as its final return, the Franchise Tax Board shall
20 notify the taxpayer that the annual tax shall continue to be due
21 annually until a certificate of cancellation is filed with the Secretary
22 of State pursuant to Section 16954 or 16960 of the Corporations
23 Code.

24 (e) Notwithstanding subdivisions (a) and (b), a limited liability
25 partnership that files a certificate of limited partnership with the
26 Secretary of State on or after January 1, ~~2014~~, 2015, shall not be
27 subject to the tax imposed under this section for the first five
28 consecutive taxable years that it does business within this state, as
29 defined by Section 23101.

30 SEC. 6. Section 23153 of the Revenue and Taxation Code is
31 amended to read:

32 23153. (a) Every corporation described in subdivision (b) shall
33 be subject to the minimum franchise tax specified in subdivision
34 (d) from the earlier of the date of incorporation, qualification, or
35 commencing to do business within this state, until the effective
36 date of dissolution or withdrawal as provided in Section 23331 or,
37 if later, the date the corporation ceases to do business within the
38 limits of this state.

39 (b) Unless expressly exempted by this part or the California
40 Constitution, subdivision (a) shall apply to each of the following:

1 (1) Every corporation that is incorporated under the laws of this
2 state.

3 (2) Every corporation that is qualified to transact intrastate
4 business in this state pursuant to Chapter 21 (commencing with
5 Section 2100) of Division 1 of Title 1 of the Corporations Code.

6 (3) Every corporation that is doing business in this state.

7 (c) The following entities are not subject to the minimum
8 franchise tax specified in this section:

9 (1) Credit unions.

10 (2) Nonprofit cooperative associations organized pursuant to
11 Chapter 1 (commencing with Section 54001) of Division 20 of the
12 Food and Agricultural Code that have been issued the certificate
13 of the board of supervisors prepared pursuant to Section 54042 of
14 the Food and Agricultural Code. The association shall be exempt
15 from the minimum franchise tax for five consecutive taxable years,
16 commencing with the first taxable year for which the certificate
17 is issued pursuant to subdivision (b) of Section 54042 of the Food
18 and Agricultural Code. This paragraph only applies to nonprofit
19 cooperative associations organized on or after January 1, 1994.

20 (d) (1) Except as provided in paragraph (2), paragraph (1) of
21 subdivision (f) of Section 23151, paragraph (1) of subdivision (f)
22 of Section 23181, and paragraph (1) of subdivision (c) of Section
23 23183, corporations subject to the minimum franchise tax shall
24 pay annually to the state a minimum franchise tax of eight hundred
25 dollars (\$800).

26 (2) The minimum franchise tax shall be twenty-five dollars
27 (\$25) for each of the following:

28 (A) A corporation formed under the laws of this state whose
29 principal business when formed was gold mining, which is inactive
30 and has not done business within the limits of the state since 1950.

31 (B) A corporation formed under the laws of this state whose
32 principal business when formed was quicksilver mining, which is
33 inactive and has not done business within the limits of the state
34 since 1971, or has been inactive for a period of 24 consecutive
35 months or more.

36 (3) For purposes of paragraph (2), a corporation shall not be
37 considered to have done business if it engages in business other
38 than mining.

39 (e) Notwithstanding subdivision (a), for taxable years beginning
40 on or after January 1, 1999, and before January 1, 2000, every

1 “qualified new corporation” shall pay annually to the state a
2 minimum franchise tax of five hundred dollars (\$500) for the
3 second taxable year. This subdivision shall apply to any corporation
4 that is a qualified new corporation and is incorporated on or after
5 January 1, 1999, and before January 1, 2000.

6 (1) The determination of the gross receipts of a corporation, for
7 purposes of this subdivision, shall be made by including the gross
8 receipts of each member of the commonly controlled group, as
9 defined in Section 25105, of which the corporation is a member.

10 (2) “Gross receipts, less returns and allowances reportable to
11 this state,” means the sum of the gross receipts from the production
12 of business income, as defined in subdivision (a) of Section 25120,
13 and the gross receipts from the production of nonbusiness income,
14 as defined in subdivision (d) of Section 25120.

15 (3) “Qualified new corporation” means a corporation that is
16 incorporated under the laws of this state or has qualified to transact
17 intrastate business in this state, that begins business operations at
18 or after the time of its incorporation and that reasonably estimates
19 that it will have gross receipts, less returns and allowances,
20 reportable to this state for the taxable year of one million dollars
21 (\$1,000,000) or less. “Qualified new corporation” does not include
22 any corporation that began business operations as a sole
23 proprietorship, a partnership, or any other form of business entity
24 prior to its incorporation. This subdivision shall not apply to any
25 corporation that reorganizes solely for the purpose of reducing its
26 minimum franchise tax.

27 (4) This subdivision shall not apply to limited partnerships, as
28 defined in Section 17935, limited liability companies, as defined
29 in Section 17941, limited liability partnerships, as described in
30 Section 17948, charitable organizations, as described in Section
31 23703, regulated investment companies, as defined in Section 851
32 of the Internal Revenue Code, real estate investment trusts, as
33 defined in Section 856 of the Internal Revenue Code, real estate
34 mortgage investment conduits, as defined in Section 860D of the
35 Internal Revenue Code, qualified Subchapter S subsidiaries, as
36 defined in Section 1361(b)(3) of the Internal Revenue Code, or to
37 the formation of any subsidiary corporation, to the extent
38 applicable.

39 (5) For any taxable year beginning on or after January 1, 1999,
40 and before January 1, 2000, if a corporation has qualified to pay

1 five hundred dollars (\$500) for the second taxable year under this
2 subdivision, but in its second taxable year, the corporation's gross
3 receipts, as determined under paragraphs (1) and (2), exceed one
4 million dollars (\$1,000,000), an additional tax in the amount equal
5 to three hundred dollars (\$300) for the second taxable year shall
6 be due and payable by the corporation on the due date of its return,
7 without regard to extension, for that year.

8 (f) (1) (A) Notwithstanding subdivision (a), every corporation
9 that incorporates or qualifies to do business in this state on or after
10 January 1, 2000, shall not be subject to the minimum franchise tax
11 for its first taxable year.

12 (B) Notwithstanding subdivision (a), every corporation that
13 incorporates in this state on or after January 1, ~~2014~~, 2015, shall
14 not be subject to the minimum franchise tax for its first five
15 consecutive taxable years.

16 (2) This subdivision shall not apply to limited partnerships, as
17 defined in Section 17935, limited liability companies, as defined
18 in Section 17941, limited liability partnerships, as described in
19 Section 17948, charitable organizations, as described in Section
20 23703, regulated investment companies, as defined in Section 851
21 of the Internal Revenue Code, real estate investment trusts, as
22 defined in Section 856 of the Internal Revenue Code, real estate
23 mortgage investment conduits, as defined in Section 860D of the
24 Internal Revenue Code, and qualified Subchapter S subsidiaries,
25 as defined in Section 1361(b)(3) of the Internal Revenue Code, to
26 the extent applicable.

27 (3) This subdivision shall not apply to any corporation that
28 reorganizes solely for the purpose of avoiding payment of its
29 minimum franchise tax.

30 (g) Notwithstanding subdivision (a), a domestic corporation, as
31 defined in Section 167 of the Corporations Code, that files a
32 certificate of dissolution in the office of the Secretary of State
33 pursuant to subdivision (b) of Section 1905 of the Corporations
34 Code, prior to its amendment by the act amending this subdivision,
35 and that does not thereafter do business shall not be subject to the
36 minimum franchise tax for taxable years beginning on or after the
37 date of that filing.

38 (h) The minimum franchise tax imposed by paragraph (1) of
39 subdivision (d) shall not be increased by the Legislature by more
40 than 10 percent during any calendar year.

1 (i) (1) Notwithstanding subdivision (a), a corporation that is a
2 small business solely owned by a deployed member of the United
3 States Armed Forces shall not be subject to the minimum franchise
4 tax for any taxable year the owner is deployed and the corporation
5 operates at a loss or ceases operation.

6 (2) The Franchise Tax Board may promulgate regulations as
7 necessary or appropriate to carry out the purposes of this
8 subdivision, including a definition for “ceases operation.”

9 (3) For the purposes of this subdivision, all of the following
10 definitions apply:

11 (A) “Deployed” means being called to active duty or active
12 service during a period when a Presidential Executive order
13 specifies that the United States is engaged in combat or homeland
14 defense. “Deployed” does not include either of the following:

15 (i) Temporary duty for the sole purpose of training or processing.

16 (ii) A permanent change of station.

17 (B) “Operates at a loss” means negative net income as defined
18 in Section 24341.

19 (C) “Small business” means a corporation with total income
20 from all sources derived from, or attributable, to the state of two
21 hundred fifty thousand dollars (\$250,000) or less.

22 (4) This subdivision shall become inoperative for taxable years
23 beginning on or after January 1, ~~2018~~. *2019*.

24 SEC. 7. Section 23701.1 is added to the Revenue and Taxation
25 Code, to read:

26 23701.1. A corporation that incorporates under the laws of this
27 state on or after January 1, ~~2014~~, *2015*, shall be exempt from the
28 taxes imposed under this part for the first five consecutive taxable
29 years that it does business within this state, as defined by Section
30 23101.

31 SEC. 8. This act provides for a tax levy within the meaning of
32 Article IV of the Constitution and shall go into immediate effect.